

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TOYOTA JIDOSHA KABUSHIKI KAISHA
also doing business as TOYOTA MOTOR
CORPORATION (a Japanese Corporation),
TOYOTA MOTOR SALES, U.S.A., INC.
(a California corporation)

Plaintiffs

vs.

Civil Action No. 2:07-cv-12329

MARIO MENDOZA, doing business as
LEXUS CASH (a Michigan resident)
and KATIE LYNN KRZYWDZINSKI
doing business as LEXUS CASH
(a Michigan resident)

Defendants

FINAL JUDGMENT

There being no genuine issues of fact or law in dispute between the parties; all matters in this civil action having been settled; and this action being in condition for entry of Final Judgment, it is

ORDERED, ADJUDGED AND DECREED that:

(1) This Court has jurisdiction of the subject matter and the parties under § 39 of the Federal Trademark Act, 15 U.S.C. § 1121, and the Judicial Code, 28 U.S.C. §§ 1331, 1332, 1338 and 1367.

(2) Plaintiff Toyota Jidosha Kabushiki Kaisha, also doing business as Toyota Motor Corporation (“Plaintiff TMC”), is the owner of the trade name LEXUS and the marks LEXUS and LEXUS & Design, alone and in combination with other wording, for

automobiles and structural parts and accessories therefor, and related automobile repair and maintenance services, and is the owner of U.S. Trademark Registration Nos. 1,574,718, 1,675,339, 1,739,201, 1,814,753, 1,834,147, 1,871,549, 2,016,803, 2,851,110, 2,852,290, 2,899,728, 2,925,515 and 3,168,149 of said marks, among others.

(3) Plaintiff TMC and its subsidiary Plaintiff Toyota Motor Sales, U.S.A., Inc. ("Plaintiff TMS") have the exclusive right to use the trade name LEXUS and the marks LEXUS and LEXUS & Design, alone and in combination with other wording, in the State of Michigan and in interstate commerce.

(4) The marks LEXUS and LEXUS & Design, alone and in combination with other wording, and Registration Nos. 1,574,718, 1,675,339, 1,739,201, 1,814,753, 1,834,147, 1,871,549, 2,016,803, 2,851,110, 2,852,290, 2,899,728, 2,925,515 and 3,168,149 are each valid, subsisting and enforceable as against Defendants.

(5) The mark LEXUS had become famous and entitled to a broad ambit of protection against dilution and infringement prior to Defendants' actions complained of in this civil action.

(6) Defendants' use of the trade names and service marks LEXUS and LEXUS CASH and the domain name <lexuscash.com> in the advertising, promotion and operation of a sexually explicit adult entertainment web site is likely to dilute the distinctive qualities of the famous mark LEXUS and is likely to cause confusion as to the source and/or sponsorship of Defendants and their business.

(7) Effective September 1, 2007, Defendants and each of their respective agents, employees, servants, successors and assigns, and all others in privity or acting in concert therewith, are hereby permanently enjoined from:

- (a) Using the trade names and service marks LEXUS and LEXUS CASH, the domain name <lexuscash.com>, any other name or mark or domain name that includes LEX, and/or any other copy or colorable imitation of the trade name and marks LEXUS, alone and/or in combination with other words, letters and/or symbols; and
- (b) Otherwise infringing or diluting the distinctiveness of the federally registered marks LEXUS and LEXUS & Design.

(8) On or before September 1, 2007, Defendants are directed to:

- (a) Transfer the domain name <lexuscash.com> to Plaintiff Toyota Motor Sales, U.S.A., Inc.;
- (b) Forward written requests to publishers of all Internet and other directories where the web site <lexuscash.com> is listed, requesting the deletion of said listing(s) and concurrently therewith shall provide true and correct copies of such written requests to counsel for Plaintiffs; and
- (c) Destroy all existing signage, promotional or other printed materials in their possession, custody or control which bear or otherwise display the names and marks LEXUS and LEXUS CASH and/or the domain name <lexuscash.com> as well as any other name or mark that includes the prefix LEX and/or the word LEXUS.

(9) All claims pleaded by Plaintiffs against Defendants other than the claim for prohibitory and mandatory injunctive relief granted by ¶¶ (7) and (8) of this Final Judgment and all counterclaims which Defendants, as a matter of right, could have pleaded against Plaintiffs, or either of them, are hereby dismissed with prejudice with each party to bear its own costs and attorneys' fees.

(10) This Final Judgment shall be binding upon Plaintiffs and Defendants and each of their respective officers, agents, servants, employees, attorneys, and successors and assigns, and upon those persons in active concert or participation with them who receive actual notice thereof by personal service or otherwise.

(11) The Court shall retain jurisdiction of this civil action and the parties to resolve any issues arising of any claim of violation of or noncompliance with this Final Judgment and/or the Agreement between the parties in settlement of this civil action. In the event that any restraining order or preliminary injunction is granted in Plaintiffs' favor in connection with any violation of or noncompliance with this Final Injunction, Plaintiffs shall not be required to post any security bond.

(12) In accordance with § 34 of the Federal Trademark Act, 15 U.S.C. § 1116, the Clerk of the Court shall notify the Commissioner of Patents and Trademarks of the entry of this Final Judgment who shall enter it upon the records of the Patent and Trademark Office.

s/ DENISE PAGE HOOD
United States District Judge

Dated: Septemer 19, 2007

Plaintiffs, through their undersigned counsel, and Defendants hereby consent to the entry of the foregoing Final Judgment and waive any and all rights of appeal.

TOYOTA JIDOSHA KABUSHIKI
KAISHA, also doing business as
TOYOTA MOTOR CORPORATION, and
TOYOTA MOTOR SALES, U.S.A., INC.

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Defendants (in pro per)